

August 28, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. L96P0005
Proposed Ordinance No. 96-509

Proposed Plat of CROSSLAND MEADOWS

Location: Generally located between Northeast 124th Street and Northeast 125th Street, and 82nd Avenue Northeast and 84th Avenue Northeast

Owner/Applicant: Gordon M. & Jill R. Cross
8214 NE 124th Street
Kirkland, WA 98034

Agent/Engineer: Northwest Engineering Company
12828 Northup Way, Suite 310
Bellevue, WA 98034

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted:	February 15, 1996
Notice of complete application:	February 15, 1996
Department Preliminary Report issued:	July 8, 1996

EXAMINER PROCEEDINGS:

Hearing Opened:	July 22, 1996
Hearing Closed:	July 22, 1996
Hearing Reopened:	August 15, 1996
Hearing Closed:	August 15, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Road capacity and mitigation
- Road safety and design
- Recreation facilities - fee in lieu

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner:	Gordon M. & Jill R. Cross 8214 NE 124th Street Kirkland, WA 98034
Engineer:	Northwest Engineering Company 12828 Northup Way, Suite 310 Bellevue, WA 98034 (206) 821-7626
STR:	25-26-4
Location:	Between NE 124th Street and NE 125th Street, and 82nd Avenue NE and 84th Avenue NE
Zoning:	R-8-P
Acreage:	5.07 acres
Number of Lots:	24
Typical Lot Size:	Ranges from 5,000 to 19,000 square feet
Proposed Use:	Single-family detached residences
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	No. 41
School District:	Lake Washington No. 414
Date of Application:	February 15, 1996

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the July 22, 1996 public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD Report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD Staff recommends approval of the application subject to conditions.
3. The public hearing on the Crossland Meadows preliminary plat application was opened at 9:15 A.M., Monday, July 22, 1996, and closed later that same morning at the completion of testimony. On Tuesday morning, July 23, 1996, four residents from the neighborhood appeared at Hearing Room No. 2 in Bellevue to offer public testimony. One of the group, Tracy Harrison, submitted a written request that the hearing be re-opened for receipt of public testimony. The Notice of Public Hearing issued June 13, 1996, by the Land Use Services Division manager states that the "date of public hearing" for Crossland Meadows will be July 22 and 23, 1996. Because the terms of the notice advertised a hearing opportunity being available on July 23, 1996, a Notice of Re-opened Hearing was issued by the Hearing Examiner's office on July 30, 1996, and a second public hearing held on August 15, 1996.
4. The proposed plat seeks to convert an older rural residential property comprising 5.07 acres into 24 residential lots for urban density development. Three of the larger lots within the proposed plat will accommodate existing residences which are planned to be retained. Other outbuildings will be removed. Many of the issues raised both by neighborhood residents and the Applicant relate to the transitional problems attendant to the piecemeal transformation of this neighborhood from a rural residential pattern to urban development.
5. The neighborhood residents who testified at the hearing were primarily concerned with traffic and circulation issues. As proposed, the plat will obtain access to 82nd Avenue Northeast from a proposed public road outletting from the western side of the property. Because the property is bordered also on the south by Northeast 124th Street and on the east by 84th Avenue Northeast, various residents offered arguments in favor of alternative access via either of these two other roads. The primary neighborhood concern appears to be to avoid placing new traffic onto 82nd Avenue North-east, which is a walking route for school children to the elementary and junior high schools located northeast of the intersection of Northeast 128th Street and 82nd Avenue Northeast. Residents in this area note that the recently developed plats of Henley Place and Carlena Gardens have increased both the level and speed of traffic along 82nd Avenue Northeast,

creating a dangerous condition for school children walking to school, particularly at the intersection of 82nd Avenue Northeast with Northeast 128th Street where school traffic converges and poor visibility is encountered. These neighborhood residents argue that shifting the site access road entrance from 82nd Avenue Northeast to Northeast 124th Street will reduce project traffic impacts within the 82nd Avenue Northeast corridor.

6. This analysis is not entirely supported by the facts. The plat will contribute a total of 240 trips per day to area roads, with 30 of these being existing trips from the residences which are already on the site. The number of PM-peak hour trips from the project north on 82nd Avenue is estimated to be only nine cars. More to the point, the completion by this project of 82nd Avenue Northeast south to Northeast 124th Street should enable existing southbound traffic to head directly south to the Northeast 123rd Street corridor rather than circling north to Northeast 128th Street in order to access Juanita Drive (as some southbound traffic apparently now does). Therefore, the net effect of plat development may be to reduce northbound trips on 82nd Avenue Northeast.

Moreover, the fact that some southbound traffic may now prefer the longer route to Northeast 128th Street/Juanita Drive in order to obtain an easier left turn opportunity onto the busy arterial should be viewed as a temporary phenomenon, not a basis for longterm traffic planning. If congestion is preventing efficient left turns from Northeast 122nd Street to Juanita Drive, the eventual solution will be to signalize the intersection, in which case the diversion-ary route to Northeast 128th Street will no longer offer an attractive option. Further, to the extent that traffic from Crossland Meadows is northbound either to Juanita or the school sites, such traffic will probably use 82nd Avenue Northeast regardless of whether the access road for the plat empties onto 82nd Avenue or Northeast 124th Street. Eighty-second Avenue Northeast will probably remain the preferred route over 84th Avenue Northeast based on shorter distances and the availability of a right turn movement to 82nd Avenue as opposed to a left turn movement to 84th Avenue.

7. The other traffic and circulation concerns expressed by area residents, although certainly descriptive of legitimate problems, are beyond the scope of this subdivision review process, which is necessarily limited to mitigating the impacts of plat development. The expense of correcting existing neighborhood circulation problems cannot be imposed upon this subdivision beyond the extent of its actual contribution to such problems. Thus, questions raised by area residents concerning whether 80th Avenue Northeast ought to be closed to the south or opened to the north are beyond the scope of this review, as is the general desire for a stop sign at the intersection of Northeast 126th Place and 82nd Avenue Northeast. The impact of Crossland Meadows on these existing problems is insubstantial. Solutions to such problems therefore must be pursued through other channels.
8. The Applicant would like the County to lift its requirement for the construction of urban curb, gutter and sidewalk amenities along the plat's eastern boundary on 84th Avenue Northeast. The argument is that the existing paved shoulder with extruded curb is an adequate and consistent feature all the way north to Simonds Road. Further, it is contended that the introduction of urban sidewalks in this location with its topographical drop to the west would require substantial filling and create sight distance problems for vehicles entering 84th Avenue Northeast. The Applicant's position on these frontage improvements is supported by Mr. Lindstrom, who owns two development properties lying directly north of the Crossland Meadows plat. The Applicant has agreed that such issues ought to be pursued with the County road engineer through the road variance process. In that forum technical design issues can be better addressed and the options for an orderly transition from Rural to Urban standards appropriately evaluated.
9. Crossland Meadows is also subject to a requirement to provide onsite recreation space pursuant to KCC 21A.14.180, and the Applicant seeks relief from this requirement in the form of the opportunity to pay fees in lieu of developing onsite facilities. Under KCC 21A.14.185 acceptance of fees in lieu of actual recreation amenities is a discretionary County decision which is based largely on an evaluation of whether adequate park facilities are already available in the neighborhood.

LUSD staff has traditionally deferred this analysis to the King County Parks Department, and this record provides no basis for deviating from this practice. Mr. Cross has cited the difficulties entailed in maintaining and policing a private onsite park under the management of a homeowners' association and to the existence of insurance liability problems. But these issues are not unique to Mr. Cross' property; they could be raised by any subdivision applicant anywhere in the County. They are objections to the existence of a policy requiring an onsite

recreation facility and not to its specific application in a particular instance.

10. Finally, the sensitive areas map within the 1993 Northshore Community Plan Update shows surface water runoff from this project being received by an unnamed creek which empties east of Champagne Point into Lake Washington. The downstream system for this creek contains erosion hazards and is characterized by salmonid use in its lower reaches. In response to an inquiry from the Examiner Mr. Whittaker of the LUSD Engineering Review Unit walked the downstream channel, verified its erosional status and observed substantial downcutting along the channel walls. In response to this information, Mr. Whittaker has recommended an amendment to the plat's stormwater release rate contained in Condition 7(a) consistent with Core Requirements 2 and 3 of the 1990 Surface Water Design Manual.

CONCLUSIONS:

1. If approved, subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION:

APPROVE the preliminary plat of CROSSLAND MEADOWS as received on February 15, 1996, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the minimum density of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements that apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Drainage Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.

Because of ravine erosion downstream, the stormwater detention release rate shall match the pre-developed two-year, 10-year and 100-year/24-hour storm per Core Requirements 2 and 3 of the 1990 Surface Water Design Manual.

- b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following notes shall be shown on the final recorded plat:

"All building downspouts, footing drains and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval."
8. The following conditions outline several Core and Special Requirements in the 1990 SWM Drainage Manual which are particularly important for the design of this project. All other applicable requirements in the SWM Manual shall also be addressed in the design of site improvement plans.
- a. Core Requirement No. 1 - Storm water shall be discharged at the natural location. All flow currently drains west along NE 124th Street.
 - b. Core Requirement No. 3 - Biofiltration of storm water is required for water quality enhancement. Drainage tracts for stormwater detention and/or biofiltration facilities shall be dedicated to King County.
9. The following conditions outline the required road improvements for this subdivision to be constructed per the 1993 King County Road Standards.
- a. The internal access road shall be constructed to the urban subaccess standard.
 - b. The site frontage along 84th Avenue NE (west side only) shall be constructed to the urban collector arterial standard. This frontage improvement shall include a transition to the existing walkway on the west side of 84th Avenue NE.
 - c. The site frontage along NE 124th Street (north side only) shall be constructed to the urban subcollector standard.
 - d. The site frontage along 82nd Avenue NE shall be constructed to the full width (minus the sidewalk on the west side) urban neighborhood collector standard. The frontage improvements shall connect to the existing improvements north of the proposed plat access road.
 - e. The engineering plans for the above frontage improvements shall be reviewed by the Traffic Engineering Section of the Department of Transportation and DDES.
 - f. Modifications to the above road standards and conditions may be considered pursuant to the variance procedures in Section 1.08 of the King County Road Standards.
10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application, and a note shall be placed on the face of the plat stating: "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid". If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12063, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
12. All utilities within proposed rights-of-way must be included within a franchise approved by the

King County Council prior to final plat recording.

13. The two existing wells shall be abandoned according to Health Department requirements.
14. There shall be no additional direct vehicular access to or from 84th Avenue NE, 82nd Avenue NE nor NE 124th Street from those lots which abut them.
15. The following conditions shall apply to implement the P-suffix conditions that apply to this property:
 - a. Seasonal Clearing: Clearing and grading shall not be permitted between October 1 and March 31, unless otherwise approved by DDES (1993 Northshore Community Plan, page 219).
 - b. Significant Tree Retention: The applicant shall demonstrate compliance with the P-suffix condition regarding significant tree retention prior to engineering plan approval (1993 Northshore Community Plan, pages 225-227).
 - c. Street Trees: Street trees shall be provided as follows:
 - 1) Trees shall be planted at a rate of one tree for every 40 feet of frontage along 84th Avenue NE, 82nd Avenue NE, NE 124th Street and the internal road(s). Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - 2) Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - 3) If King County Department of Transportation determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - 4) The street trees shall be owned and maintained by the homeowners association or similar workable organization or abutting lot owners, unless the County has adopted a maintenance program. This shall be determined and noted on the face of the final recorded plat.
 - 5) The species of trees shall be approved by DDES and King County Department of Transportation, if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary storm sewers, or that is not compatible with overhead utility lines.
 - 6) The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES, prior to engineering plan approval. King County Department of Transportation shall also review the street tree plan if the street trees will be located within the right-of-way.
 - 7) The applicant shall contact METRO Service Planning at (206) 684-1622 to determine if NE 124th Street and/or 84th Avenue NE are on bus routes. If NE 124th Street or 84th Avenue NE are on a bus route, the street tree plan shall also be reviewed by METRO.
 - 8) The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$530 landscape inspection fee shall also be submitted prior to plat recording. The inspection

fee is subject to change based on the current County fees.

- d. Pedestrian Access: A pedestrian access tract shall be provided from the internal public road to 84th Avenue NE. This tract shall be a minimum of 10 feet in width and improved with a 5-foot paved surface. A 4-foot chain link or equivalent fence shall be provided on both sides of the pedestrian tract.
16. Suitable onsite recreation shall be provided, consistent with the requirements of KCC 21A.14.180 and KCC 21A.190. A recreation plan shall be reviewed and approved by DDES and the King County Parks Division prior to engineering plan approval.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract and pedestrian tract.
18. The existing outbuildings (i.e., barn, greenhouse, gazebo, etc.) shall be removed prior to final recording.

RECOMMENDED this 28th day of August, 1996.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 28th day of August, 1996, to the following parties and interested persons:

Pamela Campbell
Dana & Karen Clausen
Gordon M. & Jill R. Cross
Jessie M. Cross
Kenneth & Judith Dearden
Bill Grover
Fred & Tracy Harrison
William Henderson
Robert Hofberg
Laura Hunt Hofberg
Dave Lindstrom
Terry Mandeville
Jack Millman

Richard Montague
Peter Neill
NW Engineering/Lawrence Grimm NW
Engineering/Gary Guinn
NW Engineering/Robert Wallis
NW Engineering/Tom White
Mark Nunes
D. Peters
Gordon Petter
Nancy & Chuk Richardson
John L. Scott Land Department
Larry & Margaret Truselo

Marilyn Cox, DDES/Land Use Services Division, SEPA Section
Gary Kohler, DDES/Land Use Services Division
Tom Koney, Metropolitan King County Council
Aileen McManus, DDES/Building Services Division
Michaelene Manion, DDES/Land Use Services Division
Joe Miles, DDES/Land Use Services Division
Paulette Norman, Dept. of Transportation/Road Services Division
Lisa Pringle, DDES/Land Use Services Division
Randy Sandin, DDES/Land Use Services Division
Steve Townsend, DDES/Land Use Services Division
Bruce Whittaker, DDES/Land Use Services Division
Paul Wozniak, DDES/Land Use Services Division

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the

Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before September 11, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before September 18, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE JULY 22, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0005 - CROSSLAND MEADOWS:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Gary Kohler, Bruce Whittaker, Gary Guinn, Gordon Cross, Rob Hofberg, Jack Millman, Pamela Campbell, Tracy Harrison, Nancy Richardson, Bill Grover, Mark Nunes, Richard Montague, and Dave Lindstrom.

The following exhibits were offered and entered into the hearing record July 22, 1996:

Exhibit No. 1	Department of Development and Environmental Services File No. L96P0005 - Crossland Meadows
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the July 22, 1996 public hearing
Exhibit No. 3	Application, dated February 15, 1996
Exhibit No. 4	Environmental Checklist, dated February 15, 1996
Exhibit No. 5	Declaration of Non-Significance, dated June 11, 1996
Exhibit No. 6	Affidavit of Posting indicating June 21, 1996 as date of posting and June 26, 1996 as date affidavit was received by DDES
Exhibit No. 7	Plat map dated February 15, 1996 (5 sheets)
Exhibit No. 8	Land use map 421-E & 422W
Exhibit No. 9	Assessors Maps NE/SE 25-26-05 & NW/SW 30-26-05
Exhibit No. 10	Level I Drainage Analysis - Northwest Engineering, February 1996
Exhibit No. 11	Conceptual Drainage Plan - Northwest Engineering, February 15, 1996
Exhibit No. 12	Letter from Gordon Petter, dated July 16, 1996
Exhibit No. 13	Letter from Mr. & Mrs. Dearden, received June 10, 1996
Exhibit No. 14	Letter and photos from Terry Mandeville, dated June 26, 1996
Exhibit No. 15	KCRS Variance Request File No. L96V0051
Exhibit No. 16	DDES Staff's revised additional recommended conditions
Exhibit No. 17	Letter from Larry & Margaret Truselo, July 15, 1996

The following exhibits were offered and entered into the hearing record August 15, 1996:

Exhibit No. 18	Packet consisting of petition, photographs, video and letter dated July 22, 1996, from Fred and Tracy Harrison and Chuck and Nancy Richardson
Exhibit No. 19	Petition in opposition of planned roadway improvement for 84th Avenue Northeast and attached photographs

Exhibit No. 20	Written request to delete the plan for a park from the project submitted by Gordon Cross
Exhibit No. 21	Memorandum dated August 12, 1996, from Paulette Norman
Exhibit No. 22	Additional wording for Condition No. 7(a) submitted by staff

SLS:daz/var
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